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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,045	11/25/2003	Jan Cornelius De Jong	7682-108-999	8309
20583	7590 10/05/2006		EXAMINER .	
JONES DAY		HILL, MYRON G		
222 EAST 413		ART UNIT	PAPER NUMBER	
NEW YORK, NY 10017			1648	
			DATE MAILED: 10/05/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

1) ⊠ Responsive to communication(s) filed on 25 November 2003. 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final. 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ☒ Claim(s) 2 and 48-61 is/are pending in the application. 4a) Of the above claim(s)			A	A 1! A/ - \				
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- The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be seniated under the provisions of 3° CPR 1.136(i), in the new plant of the time with the provision and the reply time of 3° CPR 1.136(i), in the new plant of the time with the provision during the provision of 3° CPR 1.136(i), in the reply time the circ extended period for reply is pecified above, the mainter address of the application to be spicialist to become ABNDONED (5° US 1.2° 5.13). **Party provisions by the provision of 100° to state the mainting clade of this communication, even if threely filled, may reduce any senter part the spicialistic to become ABNDONED (5° US 1.2° 5.13). **Status** **10 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. **Disposition of Claims** 4) Claim(s) 2 and 48-61 Is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abovance. See 37 CFR 1.121(d). 11) The drawing(s) filled on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abovance. See 37 CFR 1.121(d). 11)	. •	Office Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ½ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. ■ Extensions of time may be available under the provisions of 37 CFR 1.35(a). In or event, however, may a reply be timely filed of the control of the provision of 37 CFR 1.35(a). The control of time may be available under the provision of 37 CFR 1.35(a). The control of time may be available under the provision of 37 CFR 1.35(a). The control of time may be available under the provision of 18 CFR 1.35(a). The control of the communication, even if timely filed on the making date of this communication, even if timely filed, only reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication, even if timely filed, may reduce any available of the communication. 1) ■ Responsive to communication(s) filed on 25 November 2003. 2a) □ This action is FINAL. 2b) □ This action is filed to 25 November 2003. 2a) □ Claim(s) ≥ and 48-61 is/are pending in the application. 4a) ○ The action of Claims 4) □ Claim(s) ≥ and 48-61 is/are pending in the application. 4a) ○ The action of the communication is available of the communication. 4a) □ Claim(s) ≥ and 48-61 is/are allowed. 5b) □ Claim(s) ≥ and 48-61 is/are allowed. 6c) □ Claim(s) ≥ and 48-61 is/are allowed. 6c) □ Claim(s) ≥ and 48-61 is/are allowed. 6c) □ Claim(
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Edeniends of the may be availed under be provided in 37 EPR 1.13(a). In na event, howers, may a reply be limely filed after SIX (b) MONTIS from the matting date of this communication. Failus to report within the act or candidate of this communication. Failus to report within the act or candidate of this communication. Failus to report within the act or candidate price for report with by statistic acts the application become ABANDOED (38 U.S.C. § 133). Any reply received by the Diffect ster than three months after the mailing date of this communication, even if simely filed, may reduce any seamed patent term deplusiment. See 37 CFR 1.704(b). Status 1) □ Responsive to communication(s) filed on 25 November 2003. 2a) □ This action is FINAL. 2b) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4(a) Claim(s) ② and 48-61 is/are pending in the application. 4a) Of the above claim(s) ③ is/are withdrawn from consideration. 5(a) □ Claim(s) ③ is/are rejected. 7(b) □ Claim(s) ③ is/are objected to. 8(c) □ Claim(s) ③ is/are subject to restriction and/or election requirement. Application Papers 9(c) □ The drawing(s) filed on ③ is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ Certified copies of the priority documents have been received			ears on the cover sheet with the c	orrespondence address				
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a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) 5) Notice of Informal Patent Application	Priority ι	under 35 U.S.C. § 119						
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DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claim 2, drawn to an isolated virus corresponding to to the genus
 Metapneumovirus, classified in class 435, subclass 235.1.
- II. Claims 48-61, drawn to a method to detect or monitor metapneumovirus, classified in class 435, subclass 5.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are directed to an unrelated product and process. Product and process inventions are unrelated if it can be shown that the product cannot be used in, or made by, the process. See MPEP § 802.01 and § 806.06. In the instant case, the virus is not used in the assay and it is not make by the assay.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species: the sequences listed in claims 59-61. The species are independent or distinct because each is drawn to a different structure. The claims are a two tier genus-species. Claims 48-58 are generic, claims 59-61 each represent a different type of detection, and within each type of detection there is a sequence. The recited sequences have different

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structures one from other and the search for the sequences would be unduly burdensome. This requirement is not to be construed as a requirement for an election of species, since each of the sequence(s) recited constitutes an <u>independent and</u> patentably distinct invention.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 48-58 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Myron G. Hill whose telephone number is 571-272-0901. The examiner can normally be reached on 8:30 am-5 pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner

9/29/06

BRUCE R. CAMPELL, PH.D SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1600

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